IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL

WRIT PETITION NO. 684 (MS) OF 2006

Ahmad Nabi
S/o Mohammad Nabi,
R/o Hira Band, Shop No. 14, Sabji Mandi,
Rudrapur, District-Udam Singh Nagar.

.....Petitioner.

Versus

1. Additional District Judge, District Udham Singh Nagar.
2. Smt. Usha W/o Late Sachin, R/o Model Colony, Rudrapur, District - Udham Singh Nagar.

.....Respondents.

Dated: 09.06.2006

Hon'ble Rajesh Tandon, J.

Heard Sri S.K. Mandal, Advocate for the petitioner and standing counsel for the respondent no. 1. Both the parties have agreed that let the matter be finally disposed of at the admission stage.

By the present writ petition, the petitioner has prayed for setting aside the order dated 27.05.2006 passed by the respondent no. 1 (Annexure No. 10 to the writ petition) and direct the respondent no. 1 to decide the Misc. Appeal after taking into consideration the additional evidence and Commissioner report.

Briefly stated, according to the case of the petitioner, he has filed a suit for permanent injunction being Suit No. 62 of 2003 Ahmad Nabi Vs. Smt. Usha restraining the respondent

no. 2 from evicting the petitioner without due process of law. During the pendency of the suit, an application for injunction was filed. The injunction was refused by the trial Court. The petitioner preferred an appeal before the appellate Court. During the pendency of the misc. appeal the petitioner wanted to file certain documents. The same has been refused by the appellant Court.

In view of the aforesaid, the appellate Court is directed to decide the appeal after taking into consideration the telephone bill. The petitioner is directed to file the application before the appellate Court.

So far as the spot inspection is concerned, there is no need at this stage in as much as the suit is still pending and has not yet been disposed of and if at any point of time, the presiding officer considers for spot inspection, the same may be considered in accordance with law.

Writ petition is dismissed. No order as to costs.

(Rajesh Tandon, J.)

09.06.2006
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